MT LEGISLATIVE HISTORY

Chapter 368 1974

Bill H 785 S _____ Original bill & hist. no C

H. Committee on Pub. Health, Welfare & Safety

S. Committee on Pub. Health, Welfare & Safety

	H. Committee		S. Committee	
Hearing Date(s)		C		C
	2/14	✓ C	3/6	✓ C
		C		C
		C		C
Date Out	2/19	✓ C	3/6	✓ C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

February, 14, 1974

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE PROCEEDINGS:

A meeting of the Public Health, Welfare and Safety Committee was held on Thursday, February 14, 1974, at 10:30 a.m. in Room 428A with Chairman Bob Lee presiding. All members were present, except Reps. Hall, Jones, and Zimmer, who were excused.

HOUSE BILL #785 -- SPONSOR: Rep. Gorham Swanberg. He said this bill has a relatively simple concept. It allows SRS, whenever it pays aid to dependent children, to collect support from the father. He said usually a mother would rather go on welfare than to go to the county attorney to collect the support if the father refuses to pay. Rep. Swanberg said the father has the legal right to pay since he has the child support obligation. This bill will help the state save money. He introduced Mr. Gary Doran, attorney, SRS, who said the wording in this bill was lifted from a Washington statute, the state most active in this area. Currently, there are bills in the U.S. Congress that require states to become more active in payments such as these. Mr. Doran said subrogation would assist the state, and it would aid SRS coverage of support considerably. Rep. Turner asked if this would be the same as a court order. Mr.Doran replied that it wouldn't affect a court order, but SRS would have the right to enforce such an order. This bill would give SRS the same right as the mother to pursue the father, whether he is in the state or out-of-state.

HOUSE BILL #889 -- SPONSOR: Rep. Gorham Swanberg. The main purpose of this bill is to clarify residency requirements for welfare payments. The U.S. Supreme Court ruled that a person couldn't receive welfare unless he had lived in an area for a year. As a result, there have been disputes between counties as to which county "picks up the welfare tab" primarily after the first year. This is mainly an administrative problem. Mr. Doran said the Supreme Court declared the one year residency requirement as unconstitutional, but this is untenable for the department because it leaves them without a statement of residency requirement for general assistance, and it is in conflict with transient people and non-residents. This bill attempts to make a uniform system whereby the state pays for the first year of county assistance for a person moving into the state, and the county pays after. The bill also solidifies the law on the treatment of residency of persons in institutions or coming from institutions because presently, there is no set procedure. The bill also defines "interstate transient" for assistance and also clarifies "county medical."

HOUSE BILL #959 -- SPONSOR: Rep. Robert Marks. Chairman Lee informed Rep. Marks that Rep. Swanberg's bill, HB #889, deletes his bill. Rep. Marks replied that his bill tries to take care of a problem in Boulder county. The amendment he is offering states that a person discharged from a facility of the department of institutions remains a responsibility of the state and will not be considered a resident of the county the facility is located in. Mr. Jim Sandall, Jefferson County Commissioner, said the Boulder Institution has placed its people out into the county on jobs. Jefferson County has 25 people who have been placed on jobs and discharged from the institution. They are concerned that at some time, there may be 40 to 50 residents on the welfare rolls because of this, and the county can't tolerate this. There would be no problem if these people were placed into the county without being discharged from the institution, but if they have been discharged, then they usually end up on welfare. This bill will help Boulder county from becoming responsible for those patients just because the institu-

WITNESS STATEMENT

Name _____ Date _____

Address _____ Support ? _____

Representing _____ Oppose ? X

Which Bill ? _____ Amend ? _____

Comments:

Please leave prepared statement with the committee secretary.

BEST COPY AVAILABLE

This statement can be read when viewing the film, it does not copy, however

February 19, 1974

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE PROCEEDINGS:

A meeting of the Public Health, Welfare and Safety Committee was held on Tuesday, February 19, 1974,at 10:30 a.m. in Room 428A with Chairman Bob Lee presiding. All members were present, except Reps. Hall and Zimmer, who were excused. This was a meeting for executive action on all bills before the 40th day in the House.

HOUSE BILL #785 -- Rep. Olson moved that HOUSE BILL #785 DO PASS. Motion carried unanimously.

HOUSE BILL #889 -- Rep. Fagg moved that HOUSE BILL #889 DO PASS. Motion carried unanimously.

HOUSE BILL #1013 -- Rep. Marbut moved that the amendments proposed by Tom Staples, researcher, be adopted. Motion carried unanimously. Rep. Marbut then moved that HB #1013 AS AMENDED DO PASS. Motion carried unanimously.

HOUSE BILL #785 -- Rep. Holmes moved that we reconsider our action on HB #785, since Rep. Bennetts had made research on it. Motion carried with Rep. Turner opposed. Rep. Bennetts said three points were brought out concerning this bill: 1) The term "public assistance" was not defined. Since there are many types of public assistance, this term needs to be specifically outlined. 2) There are no guidelines as to which fund the money that is recovered will be paid into. 3) On lines 12 to 16 on page 2, there is the implication that as soon as th recipient loses his status as a recipient, the state recovers the money. Rep. Yardley said that "public assistance" is defined as county welfare assistance, so it would not apply to Aid to Dependent Children. Rep. McKittrick said this bill addresses itself to those fathers who are able to pay and don't. Rep. Bennetts said it would limit the welfare family in the long run because if the family receives that money from the father, the money reverts back to SRS. Rep. McKittrick said it would be helpful for this committee to have someone from the state or county to demonstrate to us how a welfare check is used. Rep. Marbut said he was against authorizing SRS to modify the schedule. He moved to amend on page 2, line 21, after the word "debtor" by adding the new material "to petition the court having jurisdiction over the particular case". Motion carried unanimously. Rep. Olson then moved that HB #785 AS AMENDED DO PASS. Motion carried with Reps. Bennetts and Holmes opposed.

HOUSE BILL #1053 -- Rep. Fagg moved that HOUSE BILL #1053 DO PASS. Rep. Marbut moved a substitute motion that HOUSE BILL #1053 DO NOT PASS, and he explained that he made such a motion because there was to have been a Governor Advisory Board appointed, and he still had questions relating to that. Motion carried. Later, HB #1053 was changed to DO PASS through a letter polling each member on the floor.

HOUSE BILL #722 -- Rep. Marbut moved that HOUSE BILL #722 be amended as proposed by Rep. Towe. Motion carried unanimously. Rep. Yardley moved to amend the bill on page 1, line 18, by deleting the word "These" and the following material on lines 19 and 20. Motion carried with Reps. Driscoll, Holmes, and Norman opposed. Rep. Marbut then moved that HB #722 AS AMENDED DO PASS. Motion carried with Reps. Asbjornson, Healy, Jones, and Olson opposed.

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

March 6, 1974

The twenty-first meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Flynn on the above date in Room 405 of the Capitol Building at 10 a.m.

ROLL CALL: All members were present with the exception of Senators Cochrane and Himsl.

CONSIDERATION OF HOUSE BILL NO. 889: Representative Swanberg stated the purpose of this bill is to clarify the counties' responsibility for assistance to welfare recipients.

Gary Doren, Department of Health and Rehabilitation Services, said he concurred in the statements made by Representative Swanberg and was available for any questions.

Senator Breeden moved that HOUSE BILL NO. 889 BE CONCURRED IN. The motion was seconded by Senator Zody and carried unanimously.

CONSIDERATION OF HOUSE BILL NO. 785: Representative Swanberg, sponsor, said the purpose of this bill is "to solve a rather nagging problem the welfare department has had." He said in some instances where the father is negligent in making support payments, the mother is reluctant to make a complaint and have suit filed against him. This bill would permit the welfare department to file suit directly against the negligent person.

Senator Lowe moved that HOUSE BILL NO. 785 BE CONCURRED IN. The motion was seconded by Senator Zody and carried unanimously.

CONSIDERATION OF HOUSE BILL NO. 877: Representative Marbut, sponsor, said the bill actually is an attempt to correct certain organizational problems created by the legislature. It addresses itself, he said, to the problem of delineating the responsibilities of the Board and the Department of H&RS. He said the Department will receive the applications and will indicate within 30 days whether or not the information is or is not complete. After that, it becomes the responsibility of the Board to inform the applicant whether or not the permit is granted.

Proponents included:

Richard Klinger, EOC Staff Council, and Ben Wake, Administrator, Office of Environmental Sciences, who said they have a real problem in trying to process some projects within 90 days.

ROLL CALL

PUBLIC HEALTH, WELFARE
& SAFETY COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974 Date 3/6/74

NAME	PRESENT	ABSENT	EXCUSED
Chairman FLYNN, Elmer - D.	X		
Vice-Chairman VAINIO, Leonard - D.	X		
BOLLINGER, Gordon - D.	X		
BREEDEN, J. W. - D.	X		
COCHRANE, Archie - R.			X
HALL, Mrs. Boots - D.	X		
HIMSL, Matt - R.		X	
LOWE, William - R.	X		
McDONALD, Jack - D.	X		
STORY, Pete - R.	X		
ZODY, A. A. - D.	X		

Each day attach to minutes

be members of the same political party. *A member of the committee shall serve until his term of office as a legislator ends or until the end of the sixtieth legislative day of the second session of the biennium following his appointment or until his successor is appointed, whichever occurs first.* The committee shall elect one of its members as chairman and such other officers as it deems necessary."

Section 3. Section 79-2304, R.C.M. 1947, is renumbered as section 79-2305, and is amended to read as follows:

"*79-2305.* **Meetings.** The committee shall meet *as often as may be necessary, during and between legislative sessions,* to advise and consult with the legislative auditor. Committee members shall be reimbursed from the appropriation to the office of the legislative auditor for their actual and necessary expenses incurred as a result of interim meetings, *and paid compensation as provided by law for interim standing committees.*"

Section 4. Section 79-2306, R.C.M. 1947, is renumbered as section 79-2308, and is amended to read as follows:

"*79-2308.* **Appointment of employees, consultants, and legal counsel.** The legislative auditor may appoint whatever employees *and consultants* are necessary to carry out the provisions of this act, within the limitations of legislative appropriations. *The legislative auditor may employ legal counsel to conduct proceedings under this act.*"

Section 5. Section 79-2308, R.C.M. 1947, is renumbered as section 79-2310, and is amended to read as follows:

"*79-2310.* **Duties of legislative auditor.** The legislative auditor shall

(1) Audit the financial affairs and transactions of every state agency.

(2) Make a full, complete and written report of each audit. A copy of each report shall be furnished to the state *department of administration,* to the state agency which is audited, to each member of the committee, and to the legislative council.

(3) Report immediately in writing to the attorney general *and the governor* any apparent violation of penal statutes disclosed by the audit of a state agency, and furnish the attorney general all information in his possession relative to the violation.

(4) Report immediately in writing to the governor any instances of misfeasance, malfeasance or nonfeasance by a state officer or employee disclosed by the audit of a state agency.

(5) Report immediately to the surety upon the bond of any official or employee when an audit discloses a shortage in the accounts of the official or employee. The failure to notify the surety does not release the surety from any obligation under the bond.

(6) Report to the legislative assembly during the first week of each regular session *in odd numbered years.* Each biennial report shall contain, among other things, copies of, or summaries of audit reports on state agencies and any recommendations relating to such reports.

(7) Have the authority to audit records of organizations and individuals receiving grants from or on behalf of the state to determine that the grants are administered in accordance with the grant terms and conditions. In each instance when a state agency enters into an agreement to grant resources under its control to others, the agency must obtain the written assent of the grantee to this audit access provision consenting to an audit of such grantee."

Section 6. Section 79-2310, R.C.M. 1947, is renumbered as section 79-2312, and is amended to read as follows:

"*79-2312.* **Recommendations of legislative auditor.** The reports of the legislative auditor may include comments, recommendations and suggestions, but he shall have no power to enforce them nor shall he otherwise influence or direct executive or legislative action."

Section 7. Section 79-2312, R.C.M. 1947, is renumbered as section 79-2314, and is amended to read as follows:

"*79-2314.* **Information from state agencies.** *(1)* All state agencies shall aid and assist the legislative auditor in the auditing of books, accounts and records.

(2) The legislative auditor may examine at any time the books, accounts and records, confidential or otherwise, of a state agency; however, this shall not be construed as authorizing the publication of information which the law prohibits publishing.

(3) The head of each state agency shall immediately notify the legislative auditor in writing upon the discovery of any larceny, or embezzlement, actual or suspected involving state moneys or property under his control or for which he is responsible."

Section 8. Section 79-2305, R.C.M. 1947, is renumbered 79-2307; section 79-2307, R.C.M. 1947, is renumbered 79-2309; and section 79-2309, R.C.M. 1947, is renumbered 79-2311.

Approved March 29, 1974

CHAPTER NO. 368

AN ACT SUBROGATING THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO THE RIGHT OF A CHILD OR CHILDREN OR PERSON HAVING THE CUSTODY OF SUCH CHILD OR CHILDREN TO PROSECUTE AND RECOVER UPON SUPPORT OBLIGATIONS OWED BY AN OBLIGOR PARENT IN THE AMOUNT OF PUBLIC ASSISTANCE PAYMENTS MADE TO SUCH CHILD OR CHILDREN OR THE AMOUNT OF COURT ORDERED SUPPORT, WHICHEVER IS LESS.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 71-511, R.C.M. 1947, which reads as follows:

71-511. **Payment of public assistance money — subrogation of the department of social and rehabilitation services — schedule of payments.** Any payment of public assistance money made to or for the benefit of any dependent child or children creates a debt due and owing to the department of social and rehabilitation services by the natural or adoptive parent or parents who are legally responsible for the support of such children by statute or court decree in an amount equal to the amount of public assistance so paid. Provided, that where the support obligation is based upon a court decree, the debt shall be limited to the amount of said court decree.

The department of social and rehabilitation services shall be subrogated to the right of said child or children or person having the care, custody and control of said child or children to prosecute or maintain and recover upon any support action or execute any administrative remedy existing under the laws of the state of Montana to obtain reimbursement of monies thus expended. If a court decree enters judgment for an amount of support to be paid by an obligor parent, the department shall be subrogated to the debt created by such order and said money judgment shall be deemed to be in favor of the department of social and rehabilitation services.

In no case shall a debt arising under this section be incurred by or collected from a parent or other person who is the recipient of public assistance monies for the benefit of minor dependent children for the period such person or persons are in such status.

The remedies herein provided are in addition to and not in lieu of existing common law and statutory law.

The department of social and rehabilitation services or its legal representatives may at any time consistent with the income, earning capacity and resources of the debtor, petition the court having jurisdiction over the particular case to set or reset a level and schedule or payments to be paid upon the debt.

Approved March 29, 1974

CHAPTER NO. 369

AN ACT PROVIDING FOR LICENSING HANDICAPPED PERSONS TO OPERATE MOTOR-DRIVEN WHEELCHAIRS AND SIMILAR VEHICLES; EXEMPTING SUCH VEHICLES FROM REGISTRATION; REQUIRING CERTAIN SAFETY FEATURES; AND AMENDING SECTION 53-104, R.C.M. 1947.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-104, R.C.M. 1947, is amended to read as follows:

"53-104. **"Motor vehicle" defined.** The word "motor vehicle" as used in this *Title* shall include trailers, semitrailers, automobiles, auto trucks,

motorcycles, cycle motors, and all other vehicles propelled by their own power, used upon the public highways of the state, excepting steam or gas tractors, *or self-propelled wheelchairs or similar vehicles operated by invalids.*"

Section 2. There is a new section to be numbered 11-911.1, R.C.M. 1947, which reads as follows:

11-911.1. **Electric wheelchairs may be operated on streets.** A person who by reason of physical disability is unable to move about as a pedestrian may operate a self-propelled wheelchair or similar vehicle, during daylight hours, on the streets of a city or town. When operated on public streets, such vehicles must display the slow moving equipment emblem required in section 32-21-130(1), or be equipped with a windwhip displaying a red flag.

Section 3. There is a new section to be numbered 11-911.2, R.C.M. 1947, which reads as follows:

11-911.2 **City and towns may regulate.** Use of self-propelled wheelchairs and similar vehicles may be regulated by cities and towns.

Approved March 29, 1974

CHAPTER NO. 370

AN ACT CHANGING THE PROPERTY TAX LIABILITY OF HARVESTING MACHINERY OWNED BY CUSTOM COMBINE OPERATORS, AND AMENDING SECTION 84-6008, R.C.M. 1947.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 84-6008, R.C.M. 1947, is amended to read as follows:

"84-6008. **Assessment of personal property brought into the state —exceptions.** Any personal property, including livestock, brought, driven or coming into this state at any time during the year which is used in the state for hire, compensation or profit; or if the owner and/or the user of the property is engaged in gainful occupation or business enterprise in the state; or the property otherwise comes to rest and becomes a part of the general property of the state, shall be subject to taxation and shall be assessed for all taxes, levied or leviable for that year in the county in which the same shall thus be, in the same manner and to the same extent except as hereinafter otherwise provided, as though such property had been in the county on the regular assessment date; provided that such property has not been regularly assessed for the year in some other county of the state; provided further that nothing herein contained shall be construed into authority to assess or levy any tax against any merchant or dealer within this state on goods, wares or merchandise brought into the county to replenish the stock of such merchant or dealer, in addition to